



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. Paul Shinkawa
Acting General Counsel
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

OR95-1502

Dear Mr. Shinkawa:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 32044.

The Texas Parks and Wildlife Department (the "department") has received a request for information concerning the department's negotiations to purchase real estate adjacent to a waterway in Jefferson County. After examining the requested documents, the department has agreed to release some of the information. However, the department asserts that the remaining documents are excepted from required public disclosure under section 552.105(2) of the act.

Section 552.105(2) of the act excepts from required public disclosure:

appraisals or purchase price of real property for a public purpose
prior to the formal award of contracts for the property.

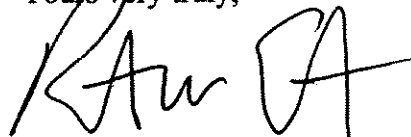
This exception protects a governmental body's planning and negotiating position with respect to particular real or personal property transactions. Open Records Decision No. 357 (1982). Hence, the protection granted under this exception is limited in duration. The protection of section 552.105 generally expires upon the governmental body's acquisition of the property in question. Open Records Decision No. 222 (1979). Because this exception extends to "information relating to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 (1990) (construing the statutory predecessor to § 552.105).¹

¹For example, the attorney general has held that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.*

When a governmental body has made a good faith determination that the release of information would damage its negotiating position with respect to the acquisition of property, the attorney general in issuing a ruling under section 552.105 will accept the determination unless the records or other information indicates the contrary as a matter of law. *Id.* We have reviewed the documents submitted and conclude that they contain information that is necessary to the department's planning and negotiating position with respect to a particular parcel of real property. We, therefore, conclude that such documents may be withheld in their entirety under the section 552.105(2), until the department purchases the appraises property.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWS' followed by a stylized 'A' or 'S'.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/KHG/rho

Ref: ID# 32044

Enclosures: Submitted documents

cc: Mr. Brent Wester
Fishermen To Free Keith Lake Cut
P.O. Box 1782
Beaumont, Texas 77704
(w/o enclosures)

²We note that no sale agreements concerning this particular parcel of property exist because a sale has not taken place.